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7 Attorney for Plaintiff

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF MONTANA**  
10 **GREAT FALLS DIVISION**

11 JAMES COLE, )  
12 )  
13 Plaintiff, )  
14 vs. ) **COMPLAINT CV-22-02-GF-BMM**  
15 )  
16 UNITED STATES OF AMERICA, )  
17 )  
18 Defendant. )  
19 )

20 Plaintiff alleges as follows:

- 21 1. Plaintiff James Cole is a citizen of the State of Montana and a resident of  
22 Blaine County, Montana.  
23 2. This Court has jurisdiction over this cause of action pursuant to the Federal  
24 Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from  
25 conduct of federal government agents and Plaintiff has exhausted  
26 administrative remedies.  
27  
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- 1 3. This Court has exclusive jurisdiction over tort claims brought against the  
2 United States pursuant to 28 U.S.C. § 1346(b).
- 3
- 4 4. Plaintiff filed Federal Tort Claim Act claims on June 30, 2021. The  
5 government did not act on the claims prior to suit being filed in this matter,  
6 therefore Plaintiff's claims are ripe for adjudication.  
7
- 8 5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(e) and 1402(b).
- 9
- 10 6. James Cole was hospitalized at the Billings Clinic from May 16-19, 2021, for  
11 a heart procedure.  
12
- 13 7. Upon his discharge from the Billings Clinic, Mr. Cole's prescriptions were  
14 sent to the Fort Belknap Indian Health Service pharmacy.  
15
- 16 8. Mr. Cole's medications were delivered to him on May 19, 2021 from the  
17 Fort Belknap Indian Health Service pharmacy.  
18
- 19 9. Two of the medications were not on the discharge sheet provided to Mr.  
20 Cole by the Billings Clinic, so Mr. Cole called the Fort Belknap pharmacy and  
21 inquired about the two additional medications. The pharmacy staff told Mr.  
22 Cole that the medications had been prescribed by the Billings Clinic and he  
23 should take them as directed on the bottles.  
24
- 25
- 26 10. Mr. Cole took the medications as directed from May 20 through May 23,  
27  
28

1 2021, but felt increasingly sick and lethargic. His blood pressure fell to  
2 77/48.

3  
4 11. Mr. Cole called the Billings Clinic Ask-A-Nurse, who told him the  
5 medications in questions had not been prescribed by the Billings Clinic, and  
6 told him stop taking those medications, and directed him to go to the  
7 nearest emergency department.  
8

9  
10 12. Mr. Cole went to the Fort Belknap emergency department on May 23,  
11 2021, where medical providers told him he was fine and sent him home.  
12

13 13. Mr. Cole's condition did not improve, so he returned to the Fort Belknap  
14 emergency department on May 24, 2021, and again was sent home without  
15 treatment.  
16

17 14. Mr. Cole's condition did not improve, so he returned to the Fort Belknap  
18 emergency department again on May 25, 2021, whereupon he was given  
19 intravenous fluid, which improved his condition.  
20

21  
22 15. Mr. Cole continues to feel the lingering effects of the medications.

23 16. The Fort Belknap pharmacist later called Mr. Cole and told him that the two  
24 medications had been prescribed by a physician at Great Falls Benefis  
25 hospital for a different patient, and were not prescribed for Mr. Cole, but  
26  
27  
28

1 the pharmacy had mistakenly dispensed the medications to Mr. Cole.

2 17. Pharmacists and Health care providers at the Ft. Belknap Health Center  
3  
4 were negligent and violated the standard of care by adding two  
5 medications to Mr. Cole's prescriptions and by telling him to take the  
6 medications, and by failing to treat him when he presented on May 23 and  
7 May 24, 2021.  
8

9  
10 18. As a direct and proximate result of each of the acts and omissions of the  
11 IHS and pharmacists and health care providers at the Ft. Belknap Health  
12 Center alleged in this Complaint, Mr. Cole's condition deteriorated and he  
13 endured pain and suffering and long-term impacts to his health.  
14  
15

16 **WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- 17 1. For judgment in such amounts as shall be proven at the time of trial.  
18  
19 2. For an award of attorney's fees and costs as provided by any  
20 applicable provision of law.  
21  
22 3. For such other and further relief as the Court deems just and  
23 equitable.  
24

25 DATED this 9th day of January, 2022.

26 /s/ Timothy M. Bechtold  
27 BECHTOLD LAW FIRM, PLLC  
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